

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

CHARLES J. BRYANT,

Plaintiff,

v.

9:16-CV-0155
(GTS/DEP)

JOHN MCWATERS, Badge #175, Corr. Officer,
Albany Cty. Corr. Fac.; and MICHAEL POOLE,
Sergeant, Albany Cty. Corr. Fac.,

Defendants

APPEARANCES:

CHARLES J. BRYANT, 15-R-1904

Plaintiff, *Pro Se*

Green Haven Correctional Facility

P.O. Box 4000

Stormville, New York 12582

HON. P. DAVID SOARES

Albany County District Attorney

Counsel for Defendants

112 State Street

Albany, New York 12207

MICHAEL L. GOLDSTEIN, ESQ.

Assistant Albany County Attorney

GLENN T. SUDDABY, Chief United States District Judge

DECISION and ORDER

Currently before the Court, in this *pro se* prisoner civil rights action filed by Charles J. Bryant (“Plaintiff”) against the two above-captioned employees of Albany County Correctional Facility in Albany, New York (“Defendants”), are (1) Defendants’ motion for summary judgment based on Plaintiff’s failure to exhaust his available administrative remedies before filing this action, and (2) United States Magistrate David E. Peebles’ Report-Recommendation recommending that Plaintiff’s Complaint be dismissed for failure to exhaust his available

administrative remedies. (Dkt. Nos. 37, 46.) Plaintiff has not filed an objection to the Report-Recommendation, and the deadline in which to do so has expired. (*See generally* Docket Sheet.)

After carefully reviewing the relevant papers herein, including Magistrate Judge Peebles' thorough Report-Recommendation, the Court can find no clear-error in the Report-Recommendation.¹ Magistrate Judge Peebles employed the proper standards, accurately recited the facts, and reasonably applied the law to those facts. As a result, the Report-Recommendation is accepted and adopted in its entirety for the reasons set forth therein, Defendants' motion for summary judgment is granted, and Plaintiff's Complaint is dismissed.

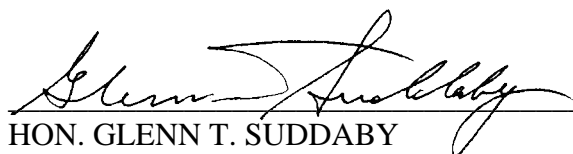
ACCORDINGLY, it is

ORDERED that Magistrate Judge Peebles' Report-Recommendation (Dkt. No. 46) is **ACCEPTED** and **ADOPTED** in its entirety; and it is further

ORDERED that Defendants' motion for summary judgment (Dkt. No. 37) is **GRANTED**; and it is further

ORDERED that Plaintiff's Complaint (Dkt. No. 1) is **DISMISSED**, and the Clerk of the Court shall enter Judgment for Defendants and close this action.

Dated: September 18, 2017
Syracuse, New York


HON. GLENN T. SUDDABY
Chief United States District Judge

¹ When no objection is made to a report-recommendation, the Court subjects that report-recommendation to only a "clear error" review. Fed. R. Civ. P. 72(b), Advisory Committee Notes: 1983 Addition. When performing such a clear error review, "the court need only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation." *Id.*; *see also Batista v. Walker*, 94-CV-2826, 1995 WL 453299, at *1 (S.D.N.Y. July 31, 1995) (Sotomayor, J.) ("I am permitted to adopt those sections of [a magistrate judge's] report to which no specific objection is made, so long as those sections are not facially erroneous.") (internal quotation marks omitted).